

Public infrastructure financing encompasses many complex and involved legal issues. Cities such as Lincoln may only undertake those funding approaches for which they are legally authorized. Federal, State, and even local statutes define the parameters within which the City can issue bonds, raise fees, and impose taxes. Any realistic package for funding Lincoln's public infrastructure needs must respect and work within these statutes – or seek to modify or repeal them through proscribed legislative channels.

This chapter examines the legislative issues reviewed by the Mayor's Infrastructure Finance Committee and the Legislation Work Group. The chapter presents a number of recommendations concerning proposed legislation or funding programs of the State and Federal governments. It is divided into the following sections:

- Legislative Priorities
- Stormwater Utility Authorization Legislation
- Fuel Sales Revenues
- Design-Build Bidding Approach
- Municipal Infrastructure Redevelopment Fund (MIRF)
- Federal Reauthorization Legislation

Legislative Priorities

The Mayor and City Council are responsible for setting the Federal and State legislative agenda for the City of Lincoln.

With this in mind, the Mayor's Infrastructure Finance Committee considered the relative priorities of the legislative options presented to them by the Legislation Work Group.

The Committee's recommendation reflects their common belief and understanding of the relative priority that should be given by the elected officials to the legislative actions needed to support the recommended funding and policy approach.

The recommended priority order for legislative items facing the City in the arena of public infrastructure financing are as follows:



Legislative Priorities

Among State-related legislation concerning public infrastructure financing reviewed by the Committee, the recommended priority order for the City of Lincoln should be as follows:

- (1) Stormwater Utility Authorization Legislation
- (2) Fuel Sales Tax Revenues
- (3) Design-Build Bidding Approach
- (4) MIRF Funding

Stormwater Utility Authorization Legislation

A “stormwater utility” represents a potential funding and administrative structure for addressing stormwater management issues at the local level. This type of utility would be able to levy a fee based on the stormwater runoff created by a particular land use, and then use that fee to construct and manage systems to control the quantity and quality of the runoff.

The City of Lincoln -- as with other Nebraska municipalities, counties, and Natural Resource Districts (NRD) -- are not presently allowed to establish such utilities. The authority to establish local stormwater utilities can only be granted to these municipalities, counties, and NRD’s by the State of Nebraska.

Legislation has been introduced into the Nebraska Unicameral during their 2003 session to allow local jurisdictions to establish their own stormwater management programs.

The proposed legislation is considered “permissive” in that it simply authorizes the creation of such programs – it does not mandate that local communities establish them. Subsequent action by the Lincoln City Council and Mayor would be required before such a stormwater management program could be put in place.



The Mayor’s Infrastructure Finance Committee and the Legislative Work Group reviewed this topic and recommend the following:



Seek Stormwater Utility Authorization Legislation

The MIFC recommends to the Mayor and City Council that the City support legislative efforts before the Nebraska Unicameral that would allow local jurisdictions to establish stormwater management programs in accordance with the conditions contained in such authorizing legislation.

Fuels Sales Revenues

Streets and highways represent the largest single infrastructure funding challenge for the City.

While Federal, State and local funds are already earmarked for such facilities, additional dollars are needed to implement the street improvements called for in the Comprehensive Plan. The Mayor's Infrastructure Finance Committee examined a number of options involving potential changes in State legislation as well as pursuing available local options. After careful consideration of the available alternatives, the Committee is recommending local action as the first course of action:

Approve Occupation Tax on Retail Fuel Sales

The MIFC recommends to the Mayor and City Council that Lincoln exercise its existing statutory authority to impose an "occupation tax" on the retail sale of fuel (i.e., gasoline and diesel) within the City.

At the MIFC's direction, this option was explored by the Finance Work Group and recommended as one of several funding approaches.

The MIFC also gave consideration to four "Fuel Sale Revenue" options investigated by the Work Group involving potential actions by the Nebraska Unicameral. These included in order of Committee preference:

Preferred Choice No. 1: Seek passage of State legislation to allow individual communities to implement a "local option fuel tax" that would go directly to that community. (City Council and mayoral action would be required to implement this option if the State authorizing legislation were passed.)



Preferred Choice No. 2: Seek passage of State legislation to levee an additional State Fuel Tax that would go directly to Nebraska cities and counties.

Preferred Choice No. 3: Seek modification to the State's fuel tax allocation formula so that the City of Lincoln would receive a greater share of the existing fuel tax revenues now going directly to Nebraska cities and counties.

Preferred Choice No. 4: Seek modification to the State's fuel tax allocation formula so that Nebraska cities and counties would receive a greater overall portion of the existing fuel tax revenues.

Design-Build Bidding Approach

The Mayor's Infrastructure Finance Committee and its Legislation Work Group examined the potential use of the "design-build bidding approach" as part of City of Lincoln's procurement process for infrastructure development.

This approach would allow a firm (or team of firms) to bid on both the design and construction of a public infrastructure facility. Presently both Nebraska State law and the Lincoln City Charter prohibit combining bids for the design and the construction phases of such projects.



The Mayor's Infrastructure Finance Committee and the Legislative Work Group reviewed this topic and recommend the following:

Seek Design-Build Authorization Legislation

The MIFC Recommends to the Mayor and City Council that the City lend its support to efforts in the Unicameral to approve legislation authorizing Nebraska communities to utilize the design-build bidding approach; and if the legislation passes the Unicameral, to recommend to the City Charter Commission that they take the steps necessary to amend Lincoln's City Charter in accordance with State law to allow "design-build bidding" to be used for local infrastructure improvement projects.

Such legislation should ensure opportunities for all companies – from the largest to the smallest – to compete fairly for projects bid under this process.



Municipal Infrastructure Redevelopment Fund (MIRF)

The Municipal Infrastructure Redevelopment Fund (MIRF) program provides the City of Lincoln with an estimated \$475,000 each year in State assistance. While these funds are often used for public infrastructure activities not covered by this study effort, the MIRF funds are an important part of the City's overall capital improvement program.

The Mayor's Infrastructure Finance Committee and the Legislative Work Group reviewed this topic and recommend the following:

Support Continuation of MIRF Program

The MIFC recommends to the Mayor and City Council that the City of Lincoln support legislative efforts to continue this State funding source at current or expanded levels.

Federal Reauthorization Legislation

The Federal government remains a major source of funding for street and highway infrastructure improvements. Legislation reauthorizing funding for such programs will soon be considered by the United States Congress.



The Mayor's Infrastructure Finance Committee and the Legislative Work Group reviewed this topic and recommend the following:

Support Federal Reauthorization Legislation

The MIFC recommends to the Mayor and City Council that the City support discussions with the Nebraska Congressional delegation to continue capital funding for streets and highways.

